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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,847	01/31/2001	Harald Krondorfer	1466	6258

7590 05/18/2007  
STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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05/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/774,847

Applicant(s)

KRONDORFER ET AL.

Examiner

Gloria R. Weeks

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). A reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any extended patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13 and 18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 11, 14-17, 19-21 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Continued Examination***

1. In view of the Appeal Brief filed on February 2, 2007, PROSECUTION IS HEREBY REOPENED. A new grounds for rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11, 14-17, 19, 20, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Johansson et al. (USPN 5,749,421).

Regarding claims 11, 14-17, 19, 20 and 21, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; a mounting part (supports 40 within 35; see illustration below); at least one elastic, vibration damping

A detailed cross-sectional diagram of a hand tool assembly. The diagram shows a central shaft passing through several components. At the top, a 'SAFETY ELEMENT (36, 39, 40)' is shown as a long, thin, slightly curved piece. Below it, a 'GRIPPING PART (19)' is a rectangular block. An 'ELASTIC DAMPING ELEMENT (35)' is a hatched, wedge-shaped component located between the gripping part and the housing. The 'HOUSING (11)' is a complex, multi-layered structure surrounding the central shaft. At the bottom, a 'MOUNTING PART' is shown as a hatched, wedge-shaped component. A 'HANDLE' is attached to the right side of the housing, featuring a circular hole. The entire assembly is shown in a cross-sectional view, with different materials represented by various hatching patterns.

With respect to claim 24, Johansson et al. discloses, a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; at least one elastic, vibration damping element 35; a mounting part (supports 40 within 35) on the elastic element (35; see

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illustration above); the at least one gripping part 19 being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable safety element 36.

In reference to claim 25, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; at least one elastic, vibration damping element 35; a mounting part (supports 40 within 35) on the elastic element (35; see illustration above); the at least one gripping part 19 being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable safety element 36.

Regarding claim 26, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; a mounting part (supports 40 within 35; see illustration above); at least one elastic, vibration damping element 35 mounted on the mounting part, the at least one gripping part 1) being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable and non-rigid safety element 36, 40 through which the gripping part 19 is connected with the mounting part, the safety element 36, 39, 40 being movable relative to the mounting part in at least a tilting direction 36 and a longitudinal direction 39, 40 during a predetermined operation relative to the gripping part 19 to avoid a passage of vibration through the safety element 36, 39, 40, wherein the elastic element 35 surrounds the safety element 40.

#### ***Allowable Subject Matter***

4. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 23 is allowed.

***Response to Arguments***

6. Applicant's arguments filed February 2, 2007 have been fully considered but they are not persuasive.

7. In reference to claims 11, 24 and 25, Applicant has argued that Johansson et al. fails to disclose the gripping part 19 mounted on the housing 11 via the mounting part as illustrated above and interpreted by Examiner, rather the gripping part 19 is mounted to the housing by way of the bolt 32. Examiner agrees that bolt 32 mounts the gripping part 19 to the housing 11, however, the mounting part as identified by examiner, also mounts the gripping part 19 to the housing through the elastic member 35. Examiner has broadly interpreted the term "mounting" to be defined as the act of placing an object upon another object.<sup>1</sup> Furthermore, Examiner has broadly interpreted the term "connected" to be defined as joining or bringing together at least two objects to form a continuous unit.<sup>2</sup>

Regarding applicant's argument that the reference fails to show a gripping part "fixedly held" on a housing through an elastic element and a mounting part as features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "fixedly held") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.<sup>3</sup>

8. Applicant has argued that the push rod 40 of Johansson et al. cannot be defined as a safety element since no safety is provided by the push rod. Examiner has found the push rod

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<sup>1</sup> The American Heritage Dictionary.

<sup>2</sup> The American Heritage Dictionary.

<sup>3</sup> See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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40 of Johnasson to indeed provide safety features, since one of ordinary skill in the art would define a trigger mechanisms as a safety element. Such safety elements prevent unintended actuation of a tool in it's state of rest or storage. As mentioned above, Examiner has broadly interpreted the term "connected" to be defined as joining or bringing together at least two objects to form a continuous unit. The portion 38 of the push rod (safety element) contacts the mounting part, and the push rod engages the lever 36 which is connected to the gripping part 19.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

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- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

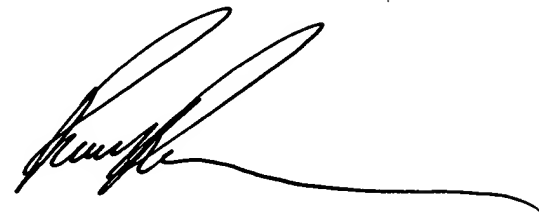
10. A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Rinaldi I. Rada.



Gloria R. Weeks

Gloria R. Weeks  
Examiner  
Art Unit 3721



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700